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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,941

10/30/2003

Klaus-Dieter Hammer

P179 1130.1

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03/28/2008

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EXAMINER

OHERN, BRENT T

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/695,941	Applicant(s) HAMMER ET AL.	
	Examiner BRENT T. OHERN	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-4, 6-9, 11-13 and 15-18.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Brent T O'Hern/
 Examiner, Art Unit 1794

/Elizabeth M. Cole/
 Primary Examiner, Art Unit 1794

Continuation of 3. NOTE:

The status identifier for claim #18 indicates "currently amended", however, there are not any markings indicating an amendment.

Continuation of 11. does NOT place the application in condition for allowance because:

The amendment is non-compliant, as discussed above.

In response to Applicant's arguments (p. 5, paras. 3-4 of Applicant's Paper filed 14 March 2008) that Hammer's ('886) express teaching that "preferred monomers B are unsaturated carboxylic acids" (See col. 5, ll. 51-55.), does not mean "unsaturated carboxylated acids" but rather esters, it is noted that such an interpretation makes the above cited language meaningless.

The Examiner does not disagree that Hammer ('886) teaches monomer esters but rather the monomers can also be unsaturated carboxylic acids as Hammer ('886) expressly teaches. It is not unreasonable to interpret "unsaturated carboxylic acids" to actually mean "unsaturated carboxylic acids" as "unsaturated carboxylic acids" are well known monomers in the sausage casing art as can be seen in Hammer ('634), Borodaev ('455), of record, and numerous other casing publications.

In response to Applicant's arguments (p. 6, para. 1 of Applicant's Paper filed 14 March 2008) that the teachings of Borodaev ('455) are limited to polyamide casings, it is noted that Applicant has not submitted any evidence of said conclusion or addressed the cited teachings of Borodaev ('455).

In response to Applicant's arguments (p. 6, paras. 2-3 of Applicant's Paper filed 14 March 2008) that the casings of Hammer's ('886) and Hammer ('634) are not comparable, therefore, one of ordinary skill in the art would not have considered the teachings of Hammer ('634), it is firstly noted that inventor Hammer is the same inventor in both patents and secondly Hammer ('634) is cited as evidence of interpreting what unsaturated carboxylic acids are, thus, such evidence is clearly relevant whether or not the casings have the exact compositions.

In response to Applicant's conclusion (p. 7, paras. 1-4 of Applicant's Paper filed 14 March 2008) that Crevasse ('495) teaches away from a casing having the length of dependent claim #13, it is noted that the Examiner does not follow Applicant's analysis of how Crevasse ('495) teaches away, furthermore, casings having various lengths, including those in claim #13 are well known and not novel.

In response to Applicant's conclusions (p. 7, para. 5 to, 9 of Applicant's Paper filed 14 March 2008) that the rejections should be withdrawn, it is noted that said statements are substantially conclusory and are not supported by any further analysis than already discussed above.

/Brent T O'Hern/
Examiner, Art Unit 1794